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U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

Timothy L. Moffett,

Court File No. 7:05cv5014

Plaintiff,

vs.

COMPLAINT

Burlington Northern Santa Fe Railway
Company,

JURY TRIAL DEMANDED

Defendant.

Plaintiff for his Complaint against Defendant, states and alleges as follows:

NATURE OF DISPUTE

1. This is a personal injury action brought under the Federal Employers' Liability Act, 45 U.S.C. § 51 *et seq.* ("FELA").

PARTIES

2. Plaintiff Timothy L. Moffett is a resident of City of Alliance, County of Box Butte, State of Nebraska.

3. Defendant Burlington Northern Santa Fe Railway Company is a Delaware corporation engaged in the business of operating an interstate system of railroads.

JURISDICTION AND VENUE

4. Federal question jurisdiction exists pursuant to 28 U.S.C. § 1331, in that Plaintiff's claims are premised upon FELA, 45 U.S.C. § 51 *et seq.*

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5. Pursuant to 45 U.S.C. § 56, venue is proper in the United States District Court for the District of Nebraska, in that Defendant does business in Nebraska.

FACTUAL ALLEGATIONS AND CLAIMS

6. On or about September 13, 2004, Plaintiff, in the course and scope of his employment with Defendant, suffered severe injuries to his right knee when he slipped on unsafe ground conditions while inspecting a train on tracks owned and maintained by Defendant near Guernsey, Wyoming.

7. Defendant had a duty under FELA to provide Plaintiff with reasonably safe workplace.

8. Defendant breached its duty under FELA in one or more of the following ways:

- a. Failing to provide Plaintiff with a reasonably safe workplace;
- b. Failing and neglecting to maintain its premises in a reasonably safe condition;
and
- c. Failing and neglecting to warn Plaintiff of the dangerous condition of its premises.

9. Defendant's negligence resulted in whole or in part in severe and permanent injuries to Plaintiff's right knee.

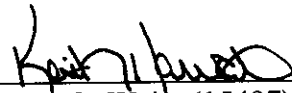
10. As a result of Defendant's negligence, Plaintiff has suffered and continues to suffer economic and non-economic damages, including loss of earnings, loss of earnings capacity, medical expenses, and pain and suffering.

WHEREFORE, Plaintiff prays for judgment against the Defendant for damages in an amount to be determined at trial, together with the costs, expenses and disbursements herein and

such other relief as may be allowed by law.

Plaintiff requests a trial by jury in North Platte, Nebraska.

WAITE, MCWHA & HARVAT

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Dated: July 11, 2005

-and-

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